

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS JAMES REAL BIRD,

Defendant.

CR 22–46–BLG–DLC

ORDER

United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendation in this matter on April 20, 2022. (Doc. 25.) Neither party objected and therefore they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan recommends that this Court accept Real Bird’s guilty plea after he appeared before him pursuant to Rule 11 of the Federal Rules of Criminal Procedure and entered a guilty plea to one count of possession with intent to

distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1), as charged in Count I of the Indictment. Reviewing for clear error, the Court finds none.

Accordingly, IT IS ORDERED that Judge Cavan's Findings and Recommendation (Doc. 25) is ADOPTED in full.

IT IS FURTHER ORDERED that Real Bird's motion to change plea (Doc. 18) is GRANTED and Real Bird is adjudged guilty as charged in Count I of the Indictment.

IT IS FURTHER ORDERED that based on the United States' motion (Doc. 28), the forfeiture allegation in this case is DISMISSED with prejudice and its motion for a preliminary order of forfeiture (Doc. 27) is DENIED as moot.

DATED this 18th day of July, 2022.



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Dana L. Christensen, District Judge  
United States District Court